

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No.330 of 2001

Petitioner

Virendra Verma, age 35 years, S/o Shri Nanaku Ram Verma, Chowkidar, Rural Electric Co-operative Society Ltd., Charama, Distt. – Kankar (C.G.)

versus

Respondents

1. Rural Electric Co-operative Society Ltd., Charama, Distt. – Kankar (C.G.)
2. Managing Director, Rural Electric Co-operative Society Ltd., Charama, Distt. – Kankar (C.G.)
3. Joint Registrar (L.D.B.), Co-operative Commissioner and Registrar Co-operative Societies, Govt. of Chhattisgarh, Krishak Nagar, Lokhandi, Raipur (C.G.)
4. The Joint Secretary (P-2), Chhattisgarh State Electricity Board, Daganiya, Raipur, Tahsil and Distt. Raipur (C.G.)
5. Chief Engineer (Vigilance), Chhattisgarh State Electricity Board, Gudiya, Raipur (C.G.)

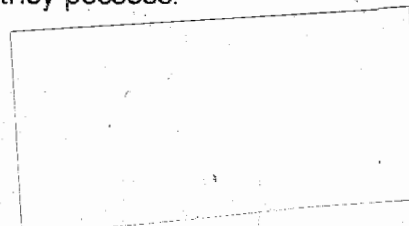
Present : Shri Rakesh Anthony, counsel for the petitioner.
Shri A.S.Gaharwar, counsel for respondents No.4 and 5.

ORAL ORDER

(Passed on 22nd March, 2007)

The petitioner had joined the service of first respondent – Society as a Line Helper sometime in the year 1989. Thereafter, he was regularized by the first respondent – Society as a Chowkidar. The first respondent – Society was taken over by the second respondent sometime in the year 2002.

(2) The terms and conditions of the agreement between the first respondent and the second respondent were that the employees working in the first respondent – Society will be absorbed by the second respondent and necessary work would be assigned to them depending on the work they were doing earlier and also the qualifications that they possess.



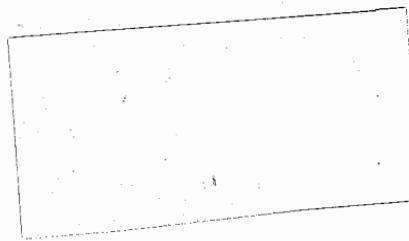
(3) The second respondent taking into consideration the post that the petitioner was holding and also the qualification, has regularized his services as a Security Guard. Aggrieved by this action of the second respondent, the petitioner is before this Court seeking a writ in the nature of certiorari to quash the order passed by the second respondent dated 27-6-1998 and the other relief sought is to direct the respondents to regularize his services only in the post of Line Helper instead of Security Guard.

(4) Learned counsel appearing for the petitioner vehemently contended that the respondents ought to have absorbed the services of the petitioner in the post of Helper and not in the post of Security Guard. Therefore, it is stated that the action of the second respondent is arbitrary and illegal.

(5) *Per contra*, learned counsel appearing for respondents No.4 and 5 would submit that a clause in the agreement between the first respondent and the second respondent would authorize the second respondent to absorb services of the employees working in the first respondent – Society in the post that they were holding when it was taken over by the second respondent and also depending upon the qualifications that they would possess on the date of taking over of the first respondent – Society by the second respondent.

(6) The only question that would arise for my consideration and decision is whether the action of the respondents is justiciable.

(7) Admittedly, the first respondent – Society is taken over by the second respondent. While taking over, there was an agreement between the first respondent – Society and the second respondent to absorb the services of the employees working in the first respondent – Society. The clause also provides that as far as possible the persons working in the first respondent – Society shall be absorbed in the very same post that they were holding in the first respondent – Society. Apart from this, it would also indicate that the absorption



would depend on the qualifications that the person would possess from the date of the absorption.

(8) In the instant case, the petitioner though had been appointed as a Line

Helper initially, the first respondent – Society had assigned him the work of

Chowkidar. The post of Chowkidar is not available with the second respondent.

Taking into consideration that the petitioner was working as Chowkidar and also

taking into consideration the educational qualification that he possessed, the

respondents have absorbed the services of the petitioner as Security Guard. In

my view, the action of the second respondent cannot be characterized either as

arbitrary or illegal. In that view of the matter, I do not think that the action of the

respondents is either arbitrary or illegal. Therefore, the relief sought for by the

petitioner in this writ petition cannot be granted. Accordingly, the writ petition

stands rejected. Ordered accordingly.

SD/-

Chief Justice